

CUSTODY AND PARENT-TIME REVISIONS

2019 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill modifies provisions regarding custody and parent-time.

Highlighted Provisions:

This bill:

- ▶ rewrites and consolidates some provisions regarding custody;
- ▶ addresses custody of children and factors the court may consider;
- ▶ addresses joint legal custody, joint physical custody, and factors the court shall consider in making a determination;
- ▶ addresses parent-time;
- ▶ permits a court to rely on divorce custody and parent-time provisions in a parentage act judicial proceeding; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

- 30-3-10**, as last amended by Laws of Utah 2017, Chapters 67 and 224
- 30-3-10.2**, as last amended by Laws of Utah 2005, Chapter 142
- 30-3-10.4**, as last amended by Laws of Utah 2017, Chapter 224
- 30-3-32**, as last amended by Laws of Utah 2017, Chapter 120
- 30-3-34**, as last amended by Laws of Utah 2015, Chapter 18
- 30-3-35**, as last amended by Laws of Utah 2018, Chapter 39
- 30-3-35.1**, as last amended by Laws of Utah 2018, Chapter 96
- 78A-6-104**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78B-15-610**, as last amended by Laws of Utah 2015, Chapter 45

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **30-3-10** is amended to read:

30-3-10. Custody of a child -- Custody factors.

~~[(1) If a married couple having one or more minor children are separated, or their marriage is declared void or dissolved, the court shall make an order for the future care and custody of the minor children as it considers appropriate.]~~

~~[(a) In determining any form of custody, including a change in custody, the court shall consider the best interests of the child without preference for either parent solely because of the biological sex of the parent and, among other factors the court finds relevant, the following:]~~

~~[(i) the past conduct and demonstrated moral standards of each of the parties;]~~

~~[(ii) which parent is most likely to act in the best interest of the child, including allowing the child frequent and continuing contact with the noncustodial parent;]~~

~~[(iii) the extent of bonding between the parent and child, meaning the depth, quality, and nature of the relationship between a parent and child;]~~

~~[(iv) whether the parent has intentionally exposed the child to pornography or material harmful to a minor, as defined in Section 76-10-1201; and]~~

~~[(v) those factors outlined in Section 30-3-10.2.]~~

(1) If a married couple having one or more minor children are separated, or the married couple's marriage is declared void or dissolved, the court shall enter, and has continuing jurisdiction to modify, an order of custody and parent-time.

(2) In determining any form of custody and parent-time under Subsection (1), the court shall consider the best interest of the child and may consider among other factors the court finds relevant, the following for each parent:

(a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional abuse, involving the child, the parent, or a household member of the parent;

(b) the parent's demonstrated understanding of, responsiveness to, and ability to meet the developmental needs of the child, including the child's:

(i) physical needs;

(ii) emotional needs;

(iii) educational needs;

- 64 (iv) medical needs; and
- 65 (v) any special needs;
- 66 (c) the parent's capacity and willingness to function as a parent, including:
- 67 (i) parenting skills;
- 68 (ii) co-parenting skills, including:
- 69 (A) ability to appropriately communicate with the other parent;
- 70 (B) ability to encourage the sharing of love and affection; and
- 71 (C) willingness to allow frequent and continuous contact between the child and the
- 72 other parent, except that, if the court determines that the parent is acting to protect the child
- 73 from domestic violence, neglect, or abuse, the parent's protective actions may be taken into
- 74 consideration; and
- 75 (iii) ability to provide personal care rather than surrogate care;
- 76 (d) the past conduct and demonstrated moral character of the parent;
- 77 (e) the emotional stability of the parent;
- 78 (f) the parent's inability to function as a parent because of drug abuse, excessive
- 79 drinking, or other causes;
- 80 (g) whether the parent has intentionally exposed the child to pornography or material
- 81 harmful to minors, as "material" and "harmful to minors" are defined in Section 76-10-1201;
- 82 (h) the parent's reasons for having relinquished custody or parent-time in the past;
- 83 (i) duration and depth of desire for custody or parent-time;
- 84 (j) the parent's religious compatibility with the child;
- 85 (k) the parent's financial responsibility;
- 86 (l) the child's interaction and relationship with step-parents, extended family members
- 87 of other individuals who may significantly affect the child's best interests;
- 88 (m) who has been the primary caretaker of the child;
- 89 (n) previous parenting arrangements in which the child has been happy and
- 90 well-adjusted in the home, school, and community;
- 91 (o) the relative benefit of keeping siblings together;
- 92 (p) the stated wishes and concerns of the child, taking into consideration the child's
- 93 cognitive ability and emotional maturity;
- 94 (q) the relative strength of the child's bond with the parent, meaning the depth, quality,

95 and nature of the relationship between the parent and the child; and

96 (r) any other factor the court finds relevant.

97 ~~[(b)]~~ (3) There is a rebuttable presumption that joint legal custody, as defined in
98 Section 30-3-10.1, is in the best interest of the child, except in cases ~~[where]~~ when there is:

99 ~~[(i) domestic violence in the home or in the presence of the child;]~~

100 (a) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional
101 abuse involving the child, a parent, or a household member of the parent;

102 ~~[(ii)]~~ (b) special physical or mental needs of a parent or child, making joint legal
103 custody unreasonable;

104 ~~[(iii)]~~ (c) physical distance between the residences of the parents, making joint decision
105 making impractical in certain circumstances; or

106 ~~[(iv)]~~ (d) any other factor the court considers relevant including those listed in this
107 section and Section 30-3-10.2.

108 ~~[(e)]~~ (4) The person who desires joint legal custody shall file a proposed parenting plan
109 in accordance with Sections 30-3-10.8 and 30-3-10.9. A presumption for joint legal custody
110 may be rebutted by a showing by a preponderance of the evidence that it is not in the best
111 interest of the child.

112 ~~[(f)]~~ (5) (a) A child may not be required by either party to testify unless the trier of fact
113 determines that extenuating circumstances exist that would necessitate the testimony of the
114 child be heard and there is no other reasonable method to present the child's testimony.

115 ~~[(e)]~~ (b) The court may inquire of a child and take into consideration the child's desires
116 regarding future custody or parent-time schedules, but the expressed desires are not controlling
117 and the court may determine the child's custody or parent-time otherwise. The desires of a
118 child 14 years of age or older shall be given added weight, but is not the single controlling
119 factor.

120 ~~[(f)]~~ (c) If an interview with a child is conducted by the court pursuant to Subsection
121 ~~[(1)(e)]~~ (5)(b), the interview shall be conducted by the judge in camera. The prior consent of
122 the parties may be obtained but is not necessary if the court finds that an interview with a child
123 is the only method to ascertain the child's desires regarding custody.

124 ~~[(2) In awarding custody, the court shall consider, among other factors the court finds~~
125 ~~relevant, which parent is most likely to act in the best interests of the child, including allowing~~

the child frequent and continuing contact with the noncustodial parent as the court finds appropriate.]

~~[(3) If the court finds that one parent does not desire custody of the child, the court shall take that evidence into consideration in determining whether to award custody to the other parent.]~~

~~[(4)]~~ (6) (a) Except as provided in Subsection ~~[(4)]~~ (6)(b), a court may not discriminate against a parent due to a disability, as defined in Section 57-21-2, in awarding custody or determining whether a substantial change has occurred for the purpose of modifying an award of custody.

(b) The court may not consider the disability of a parent as a factor in awarding custody or modifying an award of custody based on a determination of a substantial change in circumstances, unless the court makes specific findings that:

(i) the disability significantly or substantially inhibits the parent's ability to provide for the physical and emotional needs of the child at issue; and

(ii) the parent with a disability lacks sufficient human, monetary, or other resources available to supplement the parent's ability to provide for the physical and emotional needs of the child at issue.

(c) Nothing in this section may be construed to apply to adoption proceedings under Title 78B, Chapter 6, Part 1, Utah Adoption Act.

(7) This section does not establish a preference for either parent solely because of the gender of the parent.

~~[(5)]~~ (8) This section establishes neither a preference nor a presumption for or against joint physical custody or sole physical custody, but allows the court and the family the widest discretion to choose a parenting plan that is in the best interest of the child.

~~[(6)]~~ (9) When an issue before the court involves custodial responsibility in the event of a deployment of one or both parents who are servicemembers, and the servicemember has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections 78B-20-306 through 78B-20-309.

Section 2. Section **30-3-10.2** is amended to read:

30-3-10.2. Joint custody order -- Factors for court determination -- Public assistance.

(1) The court may order joint legal custody or joint physical custody or both if one or both parents have filed a parenting plan in accordance with Section 30-3-10.8 and [it] the court determines that joint legal custody or joint physical custody or both is in the best interest of the child.

(2) In determining whether the best interest of a child will be served by ordering joint legal custody or joint physical custody or both, the court shall consider the custody factors in Section 30-3-10 and the following factors:

(a) whether the physical, psychological, and emotional needs and development of the child will benefit from joint legal custody or joint physical custody or both;

(b) the ability of the parents to give first priority to the welfare of the child and reach shared decisions in the child's best interest;

~~[(c) whether each parent is capable of encouraging and accepting a positive relationship between the child and the other parent, including the sharing of love, affection, and contact between the child and the other parent;]~~

(c) co-parenting skills, including:

(i) ability to appropriately communicate with the other parent;

(ii) ability to encourage the sharing of love and affection; and

(iii) willingness to allow frequent and continuous contact between the child and the other parent, except that, if the court determines that the parent is acting to protect the child from domestic violence, neglect, or abuse, the parent's protective actions may be taken into consideration; and

(d) whether both parents participated in raising the child before the divorce;

(e) the geographical proximity of the homes of the parents;

(f) the preference of the child if the child is of sufficient age and capacity to reason so as to form an intelligent preference as to joint legal custody or joint physical custody or both;

(g) the maturity of the parents and their willingness and ability to protect the child from conflict that may arise between the parents;

(h) the past and present ability of the parents to cooperate with each other and make decisions jointly; and

~~[(i) any history of, or potential for, child abuse, spouse abuse, or kidnaping; and]~~

~~[(j)]~~ (i) any other ~~[factors]~~ factor the court finds relevant.

(3) The determination of the best interest of the child shall be by a preponderance of the evidence.

(4) The court shall inform both parties that an order for joint physical custody may preclude eligibility for cash assistance provided under Title 35A, Chapter 3, Employment Support Act.

(5) The court may order that ~~[where]~~ when possible the parties attempt to settle future disputes by a dispute resolution method before seeking enforcement or modification of the terms and conditions of the order of joint legal custody or joint physical custody through litigation, except in emergency situations requiring ex parte orders to protect the child.

Section 3. Section **30-3-10.4** is amended to read:

30-3-10.4. Modification or termination of order.

(1) On the petition of one or both of the parents, or the joint legal or physical custodians if they are not the parents, the court may, after a hearing, modify or terminate an order that established joint legal custody or joint physical custody if:

(a) the verified petition or accompanying affidavit initially alleges that admissible evidence will show that the circumstances of the child or one or both parents or joint legal or physical custodians have materially and substantially changed since the entry of the order to be modified;

(b) a modification of the terms and conditions of the order would be an improvement for and in the best interest of the child; and

(c) (i) both parents have complied in good faith with the dispute resolution procedure in accordance with Subsection 30-3-10.3(7); or

(ii) if no dispute resolution procedure is contained in the order that established joint legal custody or joint physical custody, the court orders the parents to participate in a dispute resolution procedure in accordance with Subsection 30-3-10.2(5) unless the parents certify that, in good faith, they have used a dispute resolution procedure to resolve their dispute.

(2) (a) In determining whether the best interest of a child will be served by either modifying or terminating the joint legal custody or joint physical custody order, the court shall, in addition to other factors the court considers relevant, consider the factors outlined in Section 30-3-10 and Subsection 30-3-10.2(2).

(b) A court order modifying or terminating an existing joint legal custody or joint

physical custody order shall contain written findings that:

(i) a material and substantial change of circumstance has occurred; and

(ii) a modification of the terms and conditions of the order would be an improvement for and in the best interest of the child.

(c) The court shall give substantial weight to the existing joint legal custody or joint physical custody order when the child is thriving, happy, and well-adjusted.

(3) The court shall, in every case regarding a petition for termination of a joint legal custody or joint physical custody order, consider reasonable alternatives to preserve the existing order in accordance with Subsection 30-3-10~~(1)(b)~~(3). The court may modify the terms and conditions of the existing order in accordance with Subsection 30-3-10~~(5)~~(8) and may order the parents to file a parenting plan in accordance with this chapter.

(4) A parent requesting a modification from sole custody to joint legal custody or joint physical custody or both, or any other type of shared parenting arrangement, shall file and serve a proposed parenting plan with the petition to modify in accordance with Section 30-3-10.8.

(5) If the court finds that an action under this section is filed or answered frivolously and in a manner designed to harass the other party, the court shall assess attorney fees as costs against the offending party.

(6) ~~When~~ If an issue before the court involves custodial responsibility in the event of deployment of one or both parents who are servicemembers, and the servicemember has not yet been notified of deployment, the court shall resolve the issue based on the standards in Sections 78B-20-306 through 78B-20-309.

Section 4. Section **30-3-32** is amended to read:

30-3-32. Parent-time -- Intent -- Policy -- Definitions.

(1) It is the intent of the Legislature to promote parent-time at a level consistent with all parties' interests.

(2) (a) A court shall consider as primary the safety and well-being of the child and the parent who experiences domestic or family violence.

(b) Absent a showing by a preponderance of evidence of real harm or substantiated potential harm to the child:

(i) it is in the best interests of the child of divorcing, divorced, or adjudicated parents to have frequent, meaningful, and continuing access to each parent following separation or

250 divorce;

251 (ii) each divorcing, separating, or adjudicated parent is entitled to and responsible for

252 frequent, meaningful, and continuing access with the parent's child consistent with the child's

253 best interests; and

254 (iii) it is in the best interests of the child to have both parents actively involved in

255 parenting the child.

256 (c) An order issued by a court pursuant to Title 78B, Chapter 7, Part 1, Cohabitant

257 Abuse Act, shall be considered evidence of real harm or substantiated potential harm to the

258 child.

259 (3) For purposes of ~~[Sections 30-3-32]~~ this section through Section 30-3-37:

260 (a) "Child" means the child or children of divorcing, separating, or adjudicated parents.

261 (b) Subject to Subsection (5), "Christmas school vacation" means:

262 (i) for a single child, the time period beginning on the evening the child is released

263 from school for the Christmas or winter school break and ending the evening before the child

264 returns to school; and

265 (ii) for multiple children when the children's school schedules differ, at the option of

266 the parent exercising the holiday or the parent's half of the holiday, the time period ~~[beginning]~~

267 may begin on the first evening all children's schools are released for the Christmas or winter

268 school break and ~~[ending]~~ end the evening before any of the children returns to school.

269 (c) "Extended parent-time" means a period of parent-time other than a weekend,

270 holiday as provided in Subsections 30-3-35(2)(f) and (2)(g), religious holidays as provided in

271 Subsections 30-3-33(3) and (17), and "Christmas school vacation."

272 (d) "Supervised parent-time" means parent-time that requires the noncustodial parent to

273 be accompanied during parent-time by an individual approved by the court.

274 (e) "Surrogate care" means care by any individual other than the parent of the child.

275 (f) "Uninterrupted time" means parent-time exercised by one parent without

276 interruption at any time by the presence of the other parent.

277 (g) "Virtual parent-time" means parent-time facilitated by tools such as telephone,

278 email, instant messaging, video conferencing, and other wired or wireless technologies over the

279 Internet or other communication media to supplement in-person visits between a noncustodial

280 parent and a child or between a child and the custodial parent when the child is staying with the

281 noncustodial parent. Virtual parent-time is designed to supplement, not replace, in-person
282 parent-time.

283 (4) If a parent relocates because of an act of domestic violence or family violence by
284 the other parent, the court shall make specific findings and orders with regards to the
285 application of Section 30-3-37.

286 (5) A Christmas school vacation shall be divided equally as required by Section
287 30-3-35.

288 Section 5. Section **30-3-34** is amended to read:

289 **30-3-34. Parent-time -- Best interests -- Rebuttable presumption.**

290 (1) If the parties are unable to agree on a parent-time schedule, the court may establish
291 a parent-time schedule consistent with the best interests of the child.

292 (2) The advisory guidelines as provided in Section 30-3-33 and the parent-time
293 schedule as provided in Sections 30-3-35 and 30-3-35.5 shall be presumed to be in the best
294 interests of the child unless the court determines that Section 30-3-35.1 should apply. The
295 parent-time schedule shall be considered the minimum parent-time to which the noncustodial
296 parent and the child shall be entitled unless a parent can establish otherwise by a preponderance
297 of the evidence that more or less parent-time should be awarded based upon ~~[any]~~ one or more
298 of the following criteria:

299 (a) parent-time would endanger the child's physical health or mental health, or
300 significantly impair the child's emotional development;

301 (b) evidence of domestic violence, neglect, physical abuse, sexual abuse, or emotional
302 abuse, involving the child, a parent, or a household member of the parent;

303 ~~[(b)]~~ (c) the distance between the residency of the child and the noncustodial parent;

304 ~~[(c)]~~ (d) a ~~[substantiated or unfounded]~~ supported or unsupported allegation of child
305 abuse has been made;

306 ~~[(d)]~~ (e) the lack of demonstrated parenting skills without safeguards to ensure the
307 child's well-being during parent-time;

308 ~~[(e)]~~ (f) the financial inability of the noncustodial parent to provide adequate food and
309 shelter for the child during periods of parent-time;

310 ~~[(f)]~~ (g) the preference of the child if the court determines the child ~~[to be]~~ is of
311 sufficient maturity;

312 ~~[(g)]~~ (h) the incarceration of the noncustodial parent in a county jail, secure youth
313 corrections facility, or an adult corrections facility;

314 ~~[(h)]~~ (i) shared interests between the child and the noncustodial parent;

315 ~~[(i)]~~ (j) the involvement or lack of involvement of the noncustodial parent in the
316 school, community, religious, or other related activities of the child;

317 ~~[(j)]~~ (k) the availability of the noncustodial parent to care for the child when the
318 custodial parent is unavailable to do so because of work or other circumstances;

319 ~~[(k)]~~ (l) a substantial and chronic pattern of missing, canceling, or denying regularly
320 scheduled parent-time;

321 ~~[(l)]~~ (m) the minimal duration of and lack of significant bonding in the parents'
322 relationship ~~[prior to]~~ before the conception of the child;

323 ~~[(m)]~~ (n) the parent-time schedule of siblings;

324 ~~[(n)]~~ (o) the lack of reasonable alternatives to the needs of a nursing child; and

325 ~~[(o)]~~ (p) any other criteria the court determines relevant to the best interests of the
326 child.

327 (3) The court shall enter the reasons underlying ~~[its]~~ the court's order for parent-time
328 that:

329 (a) incorporates a parent-time schedule provided in Section 30-3-35 or 30-3-35.5; or

330 (b) provides more or less parent-time than a parent-time schedule provided in Section
331 30-3-35 or 30-3-35.5.

332 (4) Once the parent-time schedule has been established, the parties may not alter the
333 schedule except by mutual consent of the parties or a court order.

334 Section 6. Section **30-3-35** is amended to read:

335 **30-3-35. Minimum schedule for parent-time for children 5 to 18 years of age.**

336 (1) The parent-time schedule in this section applies to children 5 to 18 years of age.

337 (2) If the parties do not agree to a parent-time schedule, the following schedule shall be
338 considered the minimum parent-time to which the noncustodial parent and the child shall be
339 entitled.

340 (a) (i) (A) One weekday evening to be specified by the noncustodial parent or the court,
341 or Wednesday evening if not specified, from 5:30 p.m. until 8:30 p.m.;

342 (B) at the election of the noncustodial parent, one weekday from the time the child's

343 school is regularly dismissed until 8:30 p.m., unless the court directs the application of

344 Subsection (2)(a)(i); or

345 (C) at the election of the noncustodial parent, if school is not in session, one weekday
346 from approximately 9 a.m., accommodating the custodial parent's work schedule, until 8:30
347 p.m. if the noncustodial parent is available to be with the child, unless the court directs the
348 application of Subsection (2)(a)(i)(A) or (2)(a)(i)(B).

349 (ii) Once the election of the weekday for the weekday evening parent-time is made, it
350 may not be changed except by mutual written agreement or court order.

351 (b) (i) (A) Alternating weekends beginning on the first weekend after the entry of the
352 decree from 6 p.m. on Friday until 7 p.m. on Sunday continuing each year;

353 (B) at the election of the noncustodial parent, from the time the child's school is
354 regularly dismissed on Friday until 7 p.m. on Sunday, unless the court directs the application of
355 Subsection (2)(b)(i)(A); or

356 (C) at the election of the noncustodial parent, if school is not in session, on Friday from
357 approximately 9 a.m., accommodating the custodial parent's work schedule, until 7 p.m. on
358 Sunday, if the noncustodial parent is available to be with the child unless the court directs the
359 application of Subsection (2)(b)(i)(A) or (2)(b)(i)(B).

360 (ii) A step-parent, grandparent, or other responsible adult designated by the
361 noncustodial parent, may pick up the child if the custodial parent is aware of the identity of the
362 individual, and the parent will be with the child by 7 p.m.

363 (iii) An election should be made by the noncustodial parent at the time of entry of the
364 divorce decree or court order, and may be changed by mutual agreement, court order, or by the
365 noncustodial parent in the event of a change in the child's schedule.

366 (iv) Weekends include any "snow" days, teacher development days, or other days when
367 school is not scheduled and which are contiguous to the weekend period.

368 (c) Holidays include any "snow" days, teacher development days after the children
369 begin the school year, or other days when school is not scheduled, contiguous to the holiday
370 period, and take precedence over the weekend parent-time. Changes may not be made to the
371 regular rotation of the alternating weekend parent-time schedule, however:

372 (i) birthdays take precedence over holidays and extended parent-time, except Mother's
373 Day and Father's Day; and

(ii) birthdays do not take precedence over uninterrupted parent-time if the parent exercising uninterrupted time takes the child away from that parent's residence for the uninterrupted extended parent-time.

(d) If a holiday falls on a regularly scheduled school day, the noncustodial parent shall be responsible for the child's attendance at school for that school day.

(e) (i) If a holiday falls on a weekend or on a Friday or Monday and the total holiday period extends beyond that time so that the child is free from school and the parent is free from work, the noncustodial parent shall be entitled to this lengthier holiday period.

(ii) (A) At the election of the noncustodial parent, parent-time over a scheduled holiday weekend may begin from the time the child's school is regularly dismissed at the beginning of the holiday weekend until 7 p.m. on the last day of the holiday weekend; or

(B) at the election of the noncustodial parent, if school is not in session, parent-time over a scheduled holiday weekend may begin at approximately 9 a.m., accommodating the custodial parent's work schedule, the first day of the holiday weekend until 7 p.m. on the last day of the holiday weekend, if the noncustodial parent is available to be with the child unless the court directs the application of Subsection (2)(e)(ii)(A).

(iii) A step-parent, grandparent, or other responsible individual designated by the noncustodial parent, may pick up the child if the custodial parent is aware of the identity of the individual, and the parent will be with the child by 7 p.m.

(iv) An election should be made by the noncustodial parent at the time of the divorce decree or court order, and may be changed by mutual agreement, court order, or by the noncustodial parent in the event of a change in the child's schedule.

(f) In years ending in an odd number, the noncustodial parent is entitled to the following holidays:

(i) child's birthday on the day before or after the actual birthdate beginning at 3 p.m. until 9 p.m., at the discretion of the noncustodial parent, the noncustodial parent may take other siblings along for the birthday;

(ii) Martin Luther King, Jr. beginning 6 p.m. on Friday until Monday at 7 p.m. unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;

(iii) subject to Subsection (2)(i), spring break beginning at 6 p.m. on the day school lets

out for the holiday until 7 p.m. on the evening before school resumes;

(iv) July 4 beginning 6 p.m. the day before the holiday until 11 p.m. or no later than 6 p.m. on the day following the holiday, at the option of the parent exercising the holiday;

(v) Labor Day beginning 6 p.m. on Friday until Monday at 7 p.m., unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;

(vi) the fall school break, if applicable, commonly known as U.E.A. weekend beginning at 6 p.m. on Wednesday until Sunday at 7 p.m. unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;

(vii) Veterans Day holiday beginning 6 p.m. the day before the holiday until 7 p.m. on the holiday; and

(viii) the first portion of the Christmas school vacation as defined in Subsection 30-3-32(3)(b) including Christmas Eve and Christmas Day, continuing until 1 p.m. on the day halfway through the holiday period, if there are an odd number of days for the holiday period, or until 7 p.m. if there are an even number of days for the holiday period, so long as the entire holiday period is equally divided.

(g) In years ending in an even number, the noncustodial parent is entitled to the following holidays:

(i) child's birthday on actual birthdate beginning at 3 p.m. until 9 p.m., at the discretion of the noncustodial parent, the noncustodial parent may take other siblings along for the birthday;

(ii) President's Day beginning at 6 p.m. on Friday until 7 p.m. on Monday unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;

(iii) Memorial Day beginning at 6 p.m. on Friday until Monday at 7 p.m., unless the holiday extends for a lengthier period of time to which the noncustodial parent is completely entitled;

(iv) July 24 beginning at 6 p.m. on the day before the holiday until 11 p.m. or no later than 6 p.m. on the day following the holiday, at the option of the parent exercising the holiday;

(v) Columbus Day beginning at 6 p.m. the day before the holiday until 7 p.m. on the holiday;

(vi) Halloween on October 31 or the day Halloween is traditionally celebrated in the

436 local community from after school until 9 p.m. if on a school day, or from 4 p.m. until 9 p.m.;

437 (vii) Thanksgiving holiday beginning Wednesday at 7 p.m. until Sunday at 7 p.m.; and

438 (viii) the second portion of the Christmas school vacation as defined in Subsection
439 30-3-32(3)(b), beginning 1 p.m. on the day halfway through the holiday period, if there are an
440 odd number of days for the holiday period, or at 7 p.m. if there are an even number of days for
441 the holiday period, so long as the entire Christmas holiday period is equally divided.

442 (h) The custodial parent is entitled to the odd year holidays in even years and the even
443 year holidays in odd years.

444 (i) If there is more than one child and the children's school schedules vary for purpose
445 of a holiday, ~~[it is presumed that]~~ at the option of the parent exercising the holiday or the
446 parent's half of the holiday the children ~~[will]~~ may remain together for the holiday period
447 beginning the first evening that all children's schools are let out for the holiday and ending the
448 evening before any child returns to school.

449 (j) Father's Day shall be spent with the natural or adoptive father every year beginning
450 at 9 a.m. until 7 p.m. on the holiday.

451 (k) Mother's Day shall be spent with the natural or adoptive mother every year
452 beginning at 9 a.m. until 7 p.m. on the holiday.

453 (l) Extended parent-time with the noncustodial parent may be:

454 (i) up to four consecutive weeks when school is not in session at the option of the
455 noncustodial parent, including weekends normally exercised by the noncustodial parent, but
456 not holidays;

457 (ii) two weeks shall be uninterrupted time for the noncustodial parent; and

458 (iii) the remaining two weeks shall be subject to parent-time for the custodial parent for
459 weekday parent-time but not weekends, except for a holiday to be exercised by the other
460 parent.

461 (m) The custodial parent shall have an identical two-week period of uninterrupted time
462 when school is not in session for purposes of vacation.

463 (n) Both parents shall provide notification of extended parent-time or vacation weeks
464 with the child at least 30 days before the end of the child's school year to the other parent and if
465 notification is not provided timely the complying parent may determine the schedule for
466 extended parent-time for the noncomplying parent.

(o) Telephone contact shall be at reasonable hours and for a reasonable duration.

(p) Virtual parent-time, if the equipment is reasonably available and the parents reside at least 100 miles apart, shall be at reasonable hours and for reasonable duration, provided that if the parties cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parent-time is reasonably available, taking into consideration:

(i) the best interests of the child;

(ii) each parent's ability to handle any additional expenses for virtual parent-time; and

(iii) any other factors the court considers material.

(3) An election required to be made in accordance with this section by either parent concerning parent-time shall be made a part of the decree and made a part of the parent-time order.

(4) Notwithstanding Subsection (2)(e)(i), the Halloween holiday may not be extended beyond the hours designated in Subsection (2)(g)(vi).

Section 7. Section **30-3-35.1** is amended to read:

30-3-35.1. Optional schedule for parent-time for children 5 to 18 years of age.

(1) The optional parent-time schedule in this section applies to ~~[children]~~ a child 5 to 18 years of age. This schedule is 145 overnights. Any impact on child support shall be consistent with Subsection 78B-12-102(15).

(2) The parents and the court may consider the following increased parent-time schedule as a minimum when the parties agree or the noncustodial parent can demonstrate the following:

(a) the noncustodial parent has been actively involved in the child's life;

(b) the parties are able to communicate effectively regarding the child, or the noncustodial parent has a plan to accomplish effective communications regarding the child;

(c) the noncustodial parent has the ability to facilitate the increased parent-time;

(d) the increased parent-time would be in the best interest of the child; and

(e) any other factor the court considers relevant.

(3) In determining whether a noncustodial parent has been actively involved in the child's life, the court shall consider:

(a) demonstrated responsibility in caring for the child;

- (b) involvement in [day] child care;
- (c) presence or volunteer efforts in the child's school and at extracurricular activities;
- (d) assistance with the child's homework;
- (e) involvement in preparation of meals, bath time, and bedtime for the child;
- (f) bonding with the child; and
- (g) any other factor the court considers relevant.

(4) In determining whether a noncustodial parent has the ability to facilitate the increased parent-time, the court shall consider:

(a) the geographic distance between the residences of the parents and the distance between the parents' residences and the child's school;

(b) the noncustodial parent's ability to assist with after school care;

(c) the health of the child and the noncustodial parent, consistent with Subsection 30-3-10~~(4)~~(6);

(d) flexibility of employment or other schedule of the parent;

(e) ability to provide appropriate playtime with the child;

(f) history and ability of the parent to implement a flexible schedule for the child;

(g) physical facilities of the noncustodial parent's residence; and

(h) any other factor the court considers relevant.

(5) An election required to be made in accordance with this section by either parent concerning parent-time shall be made a part of the decree and made a part of the parent-time order. An election may only be changed by mutual agreement, court order, or by the noncustodial parent in the event of a change in the child's schedule.

(6) If the parties agree or the court enters an order for the optional parent-time schedule as set forth in this section, a parenting plan in compliance with Sections 30-3-10.7 through 30-3-10.10 shall be filed with any order incorporating the following optional parent-time schedule~~[-]~~.

(a) The noncustodial parent or the court may specify one weekday for parent-time. If no day is specified, weekday parent-time shall be on Wednesday from 5:30 p.m. until the following day when delivering the child to school, or until 8 a.m., if there is no school the following day. Once the election of the weekday is made, it may only be changed in accordance with Subsection (5). At the election of the noncustodial parent, weekday

529 parent-time may commence:

530 (i) from the time the child's school is regularly dismissed; or

531 (ii) if school is not in session, and the parent is available to be with the child, at
532 approximately 8 a.m., accommodating the custodial parent's work schedule.

533 (b) Beginning on the first weekend after the entry of the decree, the noncustodial parent
534 shall be entitled to alternating weekends beginning on the first weekend after the entry of the
535 decree from 6 p.m. on Friday until Monday when delivering the child to school, or until 8 a.m.
536 if there is no school on Monday. At the election of the noncustodial parent, weekend
537 parent-time may commence:

538 (i) from the time the child's school is regularly dismissed on Friday; or

539 (ii) if school is not in session, and the parent is available to be with the child, at
540 approximately 8 a.m. on Friday, accommodating the custodial parent's work schedule.

541 (c) Subsections 30-3-35(2)(f) through (p) are incorporated into this section and
542 constitute the parent-time schedule with the exception that all instances that require the
543 noncustodial parent to return the child at any time after 6 p.m. be changed so that the
544 noncustodial parent is required to return the child to school the next morning or at 8 a.m., if
545 there is no school.

546 (7) A stepparent, grandparent, or other responsible adult designated by the noncustodial
547 parent may pick up the child if the custodial parent is aware of the identity of the individual,
548 and if the noncustodial parent will be with the child by 7 p.m.

549 (8) Weekends include any "snow" days, teacher development days, or other days when
550 school is not scheduled and that are contiguous to the weekend period.

551 (9) Holidays include any "snow" days, teacher development days after the child begins
552 the school year, or other days when school is not scheduled, contiguous to the holiday period,
553 and take precedence over weekend parent-time. Changes may not be made to the regular
554 rotation of the alternating weekend parent-time schedule.

555 (a) If a holiday falls on a school day, the noncustodial parent shall be responsible for
556 the child's attendance at school for that school day.

557 (b) If a holiday falls on a weekend or on a Friday or Monday and the total holiday
558 period extends beyond that time so that the child is free from school and the parent is free from
559 work, the noncustodial parent shall be entitled to this lengthier holiday period.

(c) At the election of the noncustodial parent, parent-time over a scheduled holiday weekend may begin from the time the child's school is dismissed at the beginning of the holiday weekend or, if school is not in session, and if the noncustodial parent is available to be with the child, parent-time over a scheduled holiday weekend may begin at approximately 8 a.m., accommodating the custodial parent's work schedule, unless the court directs the application of Subsection (6)(a).

(10) Birthdays take precedence over holidays and extended parent-time, except Mother's Day and Father's Day. Birthdays do not take precedence over uninterrupted parent-time if the parent exercising uninterrupted time is out of town for the uninterrupted extended parent-time. At the discretion of the noncustodial parent, other siblings may be taken along for birthdays.

(11) Notwithstanding Subsection (9)(b), the Halloween holiday may not be extended beyond the hours designated in Subsection 30-3-35(2)(g)(vi).

(12) If there ~~[are children]~~ is a child aged 5 to 18 and ~~[children]~~ a child under the age of five who are the natural or adopted children of the parties, the parents and the court should consider an upward deviation for parent-time with all the minor children so that parent-time is uniform based on a schedule pursuant to this section.

Section 8. Section **78A-6-104** is amended to read:

78A-6-104. Concurrent jurisdiction -- District court and juvenile court.

(1) The district court or other court has concurrent jurisdiction with the juvenile court as follows:

(a) when a person who is 18 years of age or older and who is under the continuing jurisdiction of the juvenile court under Section 78A-6-117 violates any federal, state, or local law or municipal ordinance; and

(b) in establishing paternity and ordering testing for the purposes of establishing paternity, in accordance with Title 78B, Chapter 15, Utah Uniform Parentage Act, with regard to proceedings initiated under Part 3, Abuse, Neglect, and Dependency Proceedings, or Part 5, Termination of Parental Rights Act.

(2) The juvenile court has jurisdiction over petitions to modify a minor's birth certificate if the court otherwise has jurisdiction over the minor.

(3) This section does not deprive the district court of jurisdiction to appoint a guardian

for a child, or to determine the support, custody, and parent-time of a child upon writ of habeas corpus or when the question of support, custody, and parent-time is incidental to the determination of a cause in the district court.

(4) (a) ~~[Where]~~ When a support, custody, or parent-time award has been made by a district court in a divorce action or other proceeding, and the jurisdiction of the district court in the case is continuing, the juvenile court may acquire jurisdiction in a case involving the same child if the child is dependent, abused, neglected, or otherwise comes within the jurisdiction of the juvenile court under Section 78A-6-103.

(b) The juvenile court may, by order, change the custody, subject to Subsection 30-3-10~~(4)~~(6), support, parent-time, and visitation rights previously ordered in the district court as necessary to implement the order of the juvenile court for the safety and welfare of the child. The juvenile court order remains in effect so long as the jurisdiction of the juvenile court continues.

(c) ~~[When]~~ If a copy of the findings and order of the juvenile court has been filed with the district court, the findings and order of the juvenile court are binding on the parties to the divorce action as though entered in the district court.

(5) The juvenile court has jurisdiction over questions of custody, support, and parent-time, of a minor who comes within the court's jurisdiction under this section or Section 78A-6-103.

Section 9. Section **78B-15-610** is amended to read:

78B-15-610. Joinder of judicial proceedings -- Court reliance of custody and parent-time standards.

(1) Except as otherwise provided in Subsection (2), a judicial proceeding to adjudicate parentage may be joined with a proceeding for adoption, termination of parental rights, child custody or visitation, child support, divorce, annulment, legal separation or separate maintenance, probate or administration of an estate, or other appropriate proceeding.

(2) A respondent may not join a proceeding described in Subsection (1) with a proceeding to adjudicate parentage brought under Title 78B, Chapter 14, Utah Uniform Interstate Family Support Act.

(3) A court may rely on Title 30, Chapter 3, Divorce, in determining issues related to custody or parent-time.

